

REBUTTAL TESTIMONY

OF

ANGELA NAGY

ON BEHALF OF

SOUTH CAROLINA ELECTRIC & GAS COMPANY

DOCKET NO. 2017-370-E

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION.

A. My name is Angela Nagy. I am employed as an Executive Director at Ernst & Young. My business address is 55 Ivan Allen Jr Blvd NW, Suite 1000, Atlanta, GA 30308.

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I have been a Certified Public Accountant ("CPA") licensed in Georgia since 1998. My experience includes working with multiple electric and gas utilities over the last 20 years as it relates to accounting matters. I assist companies with complex accounting matters, have previously served as a public company controller in the utility industry and began my career as an auditor, with clients that included a large electric utility. In addition to undergraduate degrees in accounting and finance, I have a Master of Business Administration degree that includes a concentration in accounting.

Q. HAVE YOU PREVIOUSLY SUBMITTED DIRECT TESTIMONY IN THIS PROCEEDING?

1 A. Yes. I submitted an affidavit in Docket No. 2017-305-E.

2 **Q. WHAT WAS THE PURPOSE OF YOUR TESTIMONY IN DOCKET NO.**
3 **2017-305-E?**

4 A. The purpose of the affidavit filed in Docket No. 2017-305-E was to
5 provide an overview of accounting guidance related to regulated operations. In
6 that affidavit, I reference how the Financial Accounting Standards Board
7 (“FASB”) issued the Accounting Standards Codification (“ASC”) as the
8 authoritative source of generally accepted accounting principles (“GAAP”). The
9 ASC includes certain industry-specific guidance in addition to general accounting
10 guidance. In that affidavit, I reference ASC 980 as it relates to Regulated
11 Operations, and within ASC 980, the application of ASC 980-360 to
12 abandonments of plant under construction by regulated utilities.

13 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

14 A. The purpose of my rebuttal testimony is to address accounting claims
15 made by ORS and other intervenors in this docket. Specifically, I will be
16 responding to accounting matters discussed by Lane Kollen on behalf of ORS and
17 certain other accounting matters discussed in Docket No. 2017-370-E.

18 **I. COMMENTARY ON ORS RECOMMENDED PLAN**

19 **Q. HAVE YOU READ ORS AUDIT INFORMATION REQUEST (“AIR”)**
20 **RESPONSE 5-13?**

21 A. Yes. I have read ORS Audit Information Request (“AIR”) Response 5-13
22 as it relates to the recovery of project costs incurred after September 30, 2017. In

1 that AIR, SCE&G commits that “SCE&G is not seeking recovery of any project
2 costs incurred from October 1, 2017 through December 31, 2017.”¹

3 **II. GAAP ACCOUNTING**

4 **Q. HOW DO YOU INTERPRET AIR RESPONSE 5-13 BASED ON YOUR**
5 **ACCOUNTING EXPERIENCE.**

6 A. Under generally accepted accounting principles, accounting costs are
7 recorded based upon when they are incurred rather than when they are paid. This
8 is a basic tenet of accrual accounting which underpins GAAP, and dates back to
9 early FASB Concepts Statements (Con 6). As such, SCE&G may seek recovery
10 for costs related to periods on or before September 30, 2017 even if paid after
11 September 30, 2017. This means the Company’s commitment stated in the AIR
12 related to costs incurred subsequent to September 30, 2017 is consistent with its
13 proposals for cost recovery in connection in the Joint Petition / Customer Benefits
14 Plan or No Merger Benefits Plan. The Company would seek recovery for costs
15 paid after October 1, 2017 as long as these costs were related to work performed
16 or products and services received on or before September 30, 2017.

17 **Q. IN YOUR EXPERIENCE, ARE ALL INCURRED COSTS ALWAYS**
18 **KNOWN AT THE END OF A REPORTING PERIOD?**

19 A. No. Companies customarily use estimates for incurred costs and often
20 learn additional information at a later date. The costs, under GAAP, still relate to

¹ ORS AIR for Docket No. 2017-370-E (5th Continuing AIR), Response 5-13.

1 the period in which they were incurred, even if certain information related to such
2 costs was not received until a later date.

3 **Q. HAVE YOU READ LANE KOLLEN'S SEPTEMBER 24, 2018**
4 **TESTIMONY?**

5 A. Yes. I have read Lane Kollen's September testimony included in Docket
6 No. 2017-370-E.

7 **Q. PLEASE DESCRIBE THE IMPLICATIONS OF ACCRUAL**
8 **ACCOUNTING TO SPECIFIC STATEMENTS IN MR. KOLLEN'S**
9 **TESTIMONY RELATED TO CONTRACTOR LIENS OF \$85 MILLION.**

10 A. Mr. Kollen did not agree that the commission should allow an \$85 million
11 reduction in the Toshiba Proceeds regulatory liability under the No Merger
12 Benefit Plan. The \$85 million reflects SCE&G's estimate of potential payment
13 obligations to satisfy contractor liens filed after the Westinghouse bankruptcy.²
14 Mr. Kollen described the liens as "additional costs that have not yet been
15 incurred, including contractor lien payments."³

16 Contractor liens related to this construction project, to the extent
17 determined to be valid claims, would seem to relate to costs which were incurred
18 prior to the cessation of the work on the project (July 31, 2017) or during the early
19 wind-down period. The Company's 2018 Q2 SEC quarterly filing stated that
20 "most of these asserted liens are 'pre-petition' claims related to work performed

² Lane Kollen, September 24, 2018 testimony, pp. 19-20.

³ Id., p. 19.

1 by WEC Subcontractors before the WEC bankruptcy, although some of them are
 2 ‘post-petition’ claims arising from work performed after the WEC bankruptcy.”
 3 This supports the Company’s position that the majority of the liens occurred prior
 4 to work stoppage.⁴ Per ORS AIR Response 1-127, “SCE&G estimates the number
 5 of the liens to be approximately 121, totaling approximately \$289 million as of
 6 March 1, 2018.”⁵ The Company’s estimate of the payments to be made to satisfy
 7 these liens should reasonably be considered as a reduction in the Toshiba
 8 Proceeds regulatory liability. Such treatment is clearly not contradictory to the
 9 Company’s statement in the AIR.

10 Mr. Kevin Kochem has testified on behalf of SCE&G that all of
 11 these liens relate to work that was performed prior to October 1, 2017. As
 12 such, under accrual accounting, future payments, if any, related to these
 13 liens would be included in costs related to the period before October 1,
 14 2017 (the period in which they were incurred), regardless of when paid.

15 **Q. WOULD WHAT YOU DESCRIBE RELATED TO ACCRUAL**
 16 **ACCOUNTING ALSO RELATE TO ANY SALE TAXES RELATED TO**
 17 **THE PERIOD PRIOR TO SEPTEMBER 30, 2017?**

18 A. Yes, as Mr. Kevin Kochem describes in his testimony, there is a current
 19 pending claim asserted by the South Carolina Department of Revenue related to
 20 purchases that were made with respect to the project prior to September 30, 2017.

⁴ 2018 SCANA Q2 10-Q, p. 70.

⁵ ORS AIR for Docket No. 2017-370-E (1st Continuing AIR), Response 1-127.

1 If the company ultimately is found to owe additional sales and use taxes, these
 2 amounts would also represent costs incurred for the NND Project for the period to
 3 which the related purchases occurred (prior to September 30, 2017) even though
 4 such tax amounts would be remitted in a later period.

5 **Q DISCUSS YOUR UNDERSTANDING OF MR. KOLLEN'S**
 6 **RECOMMENDATION TO "RECORD A REGULATORY LIABILITY**
 7 **FOR A DEFERRED RETURN ON THE PROCEEDS."**

8 A I have read Mr. Kollen's recommendation and note that he states the
 9 Company's position is "that there should be no return on the Toshiba proceeds
 10 from the end of September 2017/beginning of October 2017, when SCE&G
 11 received the proceeds, through December 2018, when the Commission is required
 12 to issue its Order in this proceeding, but then propose that there should be a
 13 grossed-up rate of return on the same proceeds after December 2018."⁶ Mr.
 14 Kollen states that the regulatory liability for the Toshiba proceeds and the related
 15 monetization financing costs are "appropriate, but only if the customers receive
 16 the return on the regulatory liability..."⁷

17 **Q. DO YOU AGREE WITH MR. KOLLEN'S RECOMMENDATION?**

18 A. No. A large portion of the cost of the nuclear project (which gave rise to
 19 the Toshiba parental guarantee proceeds) are not currently earning a return or
 20 subject to financing cost recovery in the form of revised rates, particularly after
 21 the imposition of Act 258 experimental rates retroactive to April 2018. In the

⁶ Lane Kollen, September 24, 2018 testimony, p. 24.

⁷ Id., 23.

1 absence of financing cost recovery or additional facilities charge rider with
 2 respect to these costs, the Company should not be penalized by providing a return
 3 on the regulatory liability. The treatment should be symmetrical, and if the
 4 regulatory asset is earning a return, then it would be appropriate for the regulatory
 5 liability related to the Toshiba proceeds to also accrue a return.

6 **III. IMPACT OF TCJA SAVINGS**

7 **Q. WHAT IS YOUR UNDERSTANDING OF MR. KOLLEN'S**
 8 **ASSUMPTIONS REGARDING HOW THE BASE RATE TAX SAVINGS**
 9 **SHOULD BE CALCULATED RELATED TO THE TCJA?**

10 A. Mr. Kollen stated in his testimony that "the income tax expense included
 11 in present base rates can be determined from the income tax expense and the
 12 underlying calculations in Docket No. 2012-218-E, which relied on a 2011 test
 13 year."⁸ He further stated that income tax expense "should be escalated (or de-
 14 escalated) to 2018 and future years based on the growth (or reduction) in retail
 15 kWh sales since the 2011 test year in that proceeding."⁹

16 **Q. IS THE ORS ASSUMPTION RELATED TO REVENUE GROWTH IN**
 17 **THE CALCULATION OF THE TAX CUTS AND JOBS ACT ("TCJA")**
 18 **REASONABLE?**

19 A. No. Applying a growth assumption to kWh from 2011 is an inexact
 20 method of deriving an estimate of TCJA savings in 2018 and beyond. Mr.
 21 Kollen's assumption that taxable income varies solely with changes in kWh sales

⁸ Id., p. 56.

⁹ Ibid.

1 is overly simplistic. Specifically, he states that “the income tax expense included
 2 in base rates in that proceeding then should be escalated (or de-escalated) to 2018
 3 and future years based on the growth (or reduction) in retail kWh sales since the
 4 2011 test year...”¹⁰

5 While revenue is certainly a component in the determination of taxable
 6 income, aspects related to operating expenses, gains and losses, and other factors
 7 together create the resulting taxable income. In addition, any assumption based
 8 on using 2011 data and projecting it forward, is relying on data that is stale.

9 For example, the Arkansas Public Service Commission recently filed an
 10 order discussing TCJA requirements. Docket No. 18-006-U Order No.1 states:

11 *“As a result of the TCJA of 2017, each Arkansas IOU shall prepare and*
 12 *file an analysis of the ratemaking effects of the TCJA on its revenue*
 13 *requirement... The analysis shall be based on the cost of service*
 14 *underlying the utility's most recent final rate order unless that order was*
 15 *entered before January 1, 2014. (Footnote: For a company which has not*
 16 *received a final rate order since January 1, 2014, the analysis shall be*
 17 *based on the information contained in the company's 2016 Annual*
 18 *Report(s) to the Arkansas Public Service Commission.”*¹¹

19 This Arkansas order properly considers that rates which were not
 20 developed extremely recently are inappropriate bases upon which to determine

¹⁰ Ibid.

¹¹ Docket No. 18-006-U, Order No. 1, In the matter of an investigation of the effect on revenue requirements resulting from changes to corporate income tax rates under the Tax Cuts and Jobs Act of 2017, p. 2.

1 TCJA savings for customers. It is unreasonable to assume 2011 data is an
2 accurate fair indicator of 2018 results.

3 **Q. HAVE YOU REVIEWED MR. KOLLEN'S TESTIMONY REGARDING**
4 **THE DEFERRAL OF THE TRANSMISSION REVENUE REQUIREMENT**
5 **OF THE BLRA?**

6 A. Yes. I have read Mr. Kollen's testimony and noted his suggestion that the
7 Commission "direct SCE&G to defer the entirety of the BLRA transmission
8 revenue requirement until base rates are reset to include these costs. This will
9 provide the Commission an opportunity to review the prudence of these costs and
10 to determine the appropriate ratemaking for those costs in that future
11 proceeding."¹² In this suggestion Mr. Kollen's analysis does not consider the
12 potential accounting impacts that may result from the proposed regulatory lag.

13 **Q. WHAT POTENTIAL ACCOUNTING CONSIDERATIONS WOULD**
14 **ARISE FROM THE PROPOSAL TO DEFER THE BLRA**
15 **TRANSMISSION REVENUE REQUIREMENT?**

16 A. Depending on the specifics of any potential ORS order, an additional
17 impairment could arise from a requirement for SCE&G to defer consideration of
18 recovery of the transmission costs. Mr. Kollen's testimony does not address
19 whether an additional impairment is needed. Instead, Mr. Kollen simply states
20 "the Commission should address the prudence and recovery of these transmission

¹² Lane Kollen, September 24, 2018 testimony p. 49.

1 costs in that future proceeding.”¹³ Based on the guidance in ASC 980-360, the
2 Company would need to make an evaluation whether it is probable and
3 reasonably estimable that any disallowance of the transmission costs would occur
4 under Mr. Kollen’s approach. Mr. Kollen’s approach adds more uncertainty to
5 the analysis with respect to eventual future recovery of these costs. This
6 uncertainty increases the likelihood that an impairment with respect to these
7 assets may be required.

8 **IV. CONCLUSION**

9 **Q. IN CONCLUSION, IN YOUR REBUTTAL TESTIMONY WHAT ARE**
10 **YOU ASKING THE COMMISSION TO DO?**

11 **A.** I respectfully request that the Commission recognize that SCE&G’s
12 request to recover costs incurred in periods through September 30, 2017, even
13 though not yet paid by that date, is consistent with SCE&G’s expression that it
14 will not seek recovery for costs incurred from October 1, 2017 through December
15 31, 2017. Additionally, I ask the Commission to recognize that it would be
16 appropriate for SCE&G to net any future payments to satisfy outstanding liens
17 associated with the NND Project from the proceeds of the Toshiba parental
18 guarantee. Lastly, I ask the Commission to recognize the assumptions used by
19 Mr. Kollen to calculate the rate base tax impact of the TCJA are not sufficient to
20 rely upon in this proceeding.

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

¹³ Id., p. 11.

1 A. Yes, this concludes my testimony.